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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,641	06/08/2001	Robert DeHaan	0264-0002	4624

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EXAMINER

TOOMER, CEPHIA D

ART UNIT PAPER NUMBER

1714

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

22

Office Action Summary	Application No. 09/787,641	Applicant(s) DEHAAN ET AL.	
	Examiner Cephia D. Toomer	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-22,26 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,12 and 57 is/are rejected.
- 7) ☒ Claim(s) 4-11,13-22 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

15

DETAILED ACTION

This Office action is in response to the amendment filed December 8, 2004 in which claim 8 was amended. The indication of allowable subject matter with respect to claim 1 is withdrawn. The indicated allowability of claim 1 is withdrawn in view of the previous reference to WO9214804. A rejection based on the cited reference follows.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 does not further limit claim 9. Claim 9 already contains the recited limitation.

Claim 57 is rejected because there is no antecedent support in claim 11 for "the C₁₉ to C₂₄ fraction".

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO9214804.

WO9214804 teaches a low aromatic diesel fuel comprising mainly a mixture of hydrocarbons containing not more than 1% vol of aromatic type hydrocarbons (see abstract; page 2, paragraph 3-4). WO teaches that the fuel composition of its invention is "virtually free of polynuclear aromatic hydrocarbons." See page 3, first full paragraph.

WO teaches the limitations of the claim other than the differences that are discussed below.

WO differs from the claims in that it does not specifically teach a range for the mononuclear and polynuclear aromatic compounds. However, no unobviousness is seen in this difference because WO's teaching of less than 1% aromatic hydrocarbons and virtually no polynuclear aromatic compounds overlaps Applicant's claimed range of between 0.44 mass % and 8.99 mass% monocyclic aromatic and less than 0.01 mass% polycyclic aromatics. In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists. In re Wertheim, 191 USPQ 90 (CCPA 1976); In re Woodruff 16 USPQ2d 1934 (Fed. Cir 1990).

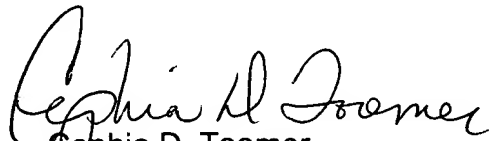
3. Claims 4-11, 13-22 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach or suggest the claimed isoparaffin to n-paraffin mass ratio.

Art Unit: 1714

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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